IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FOURTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 13653 of 2004

Between:

S.N.P.Singh, s/o.Late Ramanandan singh,
R/o.Central Industrial Security Force, Qtrs.No.7/1, CISF Complex, NFC, ECIL Post,
Hyderabad.

..... PETITIONER

AND

The Senior Commandant, Central Industrial Security Force,Ministry of Home Affairs,
CISF Unit, NFC, ECIL Post, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ or order or direction more particularly one in the nature of writ of Mandamus declaring the action of the Respondent in proposing to retire the petitioner from service on invalidation as per Rule 38 of C.C.S. (pension) Rules, 1972 w.e.f. 22-7-2004 (AN) vide proceedings No.E-38016/CISF/NFC/ADM. III/04/4268, dated 22-7-2004 which is contrary to the section 47 of persons with disabilities (Equal opportunities protection of Rights and Full participation) Act, 1995 and Judgment of the Hon'ble Supreme Court of India in Kunal Singh's Case reported in 2003 LAB., I.C., 1335 apart from violative of Article 14, 16 and 21 of the Constitution of India and consequently direct the Respondent to continue the petitioner in service by utilising his services in any other suitable post and pass.

Counsel for the Petitioner:MR.J.M.NAIDU

Counsel for the Respondent No.: MR.A.RAJASHEKAR REDDY (SC FOR CG)

The Court made the following :

THE HON'BLE Dr. JUSTICE G.YETHIRAJULU

W.P.NO.13653 OF 2004

ORDER:

The petitioner is working as an Assistant Sub Inspector in the respondent Security Force. He met with an accident and suffered from disability. The respondent issued a memo No.E-38016/CISF/NFC/ADM.III/04/4268, dated 22.07.2004 declaring that as per the recommendation of the Regional Medical Board, Gandhi Hospital, Secunderabad, the petitioner is completely and permanently incapacitated for further service in CISF and invalidated from further service due to non-union IC fracture (R) femur, with disability to an extent of 40% (Forty Percent) and unfit to carry out his present occupation. Therefore, he was informed that he will be retired from service with effect from 22.08.2004.

The petitioner being aggrieved by the said order, preferred this writ petition seeking a writ of Mandamus declaring the said order as illegal and arbitrary and to continue him in the service by utilizing his services in any other suitable post.

The learned counsel for the petitioner represents that the petitioner is entitled to be continued in service by virtue of Section 47 of "The Persons with Disabilities (Equal opportunities, Protection of Rights and Full Participation) Act, 1995" (for short 'the Act') in the suitable post in the respondent Security Force.

The learned counsel for the petitioner also brought to the notice of this Court a judgment of the Supreme Court in **KUNAL SINGH v. UNION OF INDIA** wherein the Supreme Court held that the person who acquires disability during his

service, is entitled to be protected under Section 47 of the Act and the provisions granting protection are mandatory.

The petitioner also brought to the notice of this court the case of two other employees of the very same department by name C.Promod Kumar, Head constable/Driver, and C.Pratap Singh, Assistant Inspector General. Their cases were also considered by this Court and on the orders of this Court the said benefit under Section 47 of the Act was extended to them.

In the light of the circumstances explained by the petitioner, the petitioner is directed to present a representation to the respondent for an alternative employment under Section 47 of the Act and the respondent shall pass appropriate orders on or before 20.08.2004 and communicate the same to the petitioner.

Accordingly, the writ petition is disposed of. No order as to costs.

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Dr.G.YETHIRAJULU, J

Dated 04th August, 2004.

Note:

Issue Copy by tomorrow.

(B/o)

YCR

To:

1. The Senior Commandant, Central Industrial Security Force,

Ministry of Home Affairs,CISF Unit, NFC, ECIL Post, Hyderabad.

2. 2 C.D. Copies.